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U.S. Department
of Transportation

Pipeline and
Hazardous Materials
Safety Administration

DEPT. OF TRANSPORTATION
DOCKETS

2006 JAN 25 P 2:33

Office of
Chief Counsel

400 Seventh Street, S.W., Room 8417
Washington, D.C. 20590-0001
Phone: (202) 366-6318
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E-mail: jackie.cho@dot.gov

**Hazardous Materials Safety
Law Division**

NOTICE OF PROBABLE VIOLATION

PHMSA Case No. 05-0522-SD-SW Date Issued: JAN 10 2006

Docket No. PHMSA-2006-23569 - 1

Respondent: Blue Line Corporation
3443 East Commerce Street
San Antonio, TX 78220
Attention: Jon Blumenthal, CEO

No. of Alleged Violations: 2

Maximum Possible Assessment: \$ 100,000

Total Proposed Assessment: \$ 4,410 (Includes a \$490 reduction for corrective action)

The Office of Chief Counsel of the Pipeline and Hazardous Materials Safety Administration (PHMSA) alleges that you (the Respondent named above) violated certain provisions of the Federal Hazardous Materials Transportation Law, 49 U.S.C. § 5101 *et seq.*, and/or the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171 - 180. PHMSA sets forth the specific allegations in Addendum A to this Notice.

What is the maximum and minimum civil penalty that PHMSA can assess? Federal law sets a civil penalty of not more than \$50,000 and a civil penalty of not less than \$250 for each violation of the Federal Hazardous Materials Transportation Law or the HMR committed on or after August 10, 2005, and no more than \$32,500 and no less than \$275 for each violation occurring before August 10, 2005 but after October 1, 2003 (49 U.S.C. § 5123(a)(1)). Furthermore, for violations committed on or after August 10, 2005, if a person's violation of the HMR "results in death, serious illness, or severe injury . . . or substantial destruction of property" the maximum civil penalty is \$100,000 (49 U.S.C. § 5123(a)(2)); and if the violation concerns training the minimum civil penalty is \$450 (49 U.S.C. § 5123(a)(3)). Each

day of a continuing violation constitutes a separate violation for which the maximum penalty may be imposed (49 U.S.C. § 5123(a)(4)).

What factors does PHMSA consider when proposing and assessing a civil penalty? Federal law requires PHMSA to consider certain factors when proposing and assessing a civil penalty for a violation of Federal Hazardous Materials Transportation Law or the HMR. Please refer to Addendum B to this Notice for more information concerning these factors.

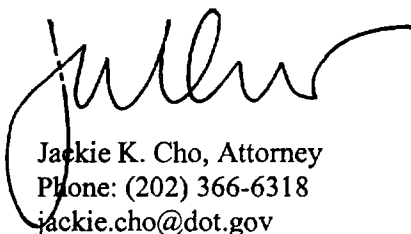
When is my response due? You must respond within thirty (30) days from the date that you receive the Notice (49 C.F.R. § 107.313(a)). **PHMSA encourages you to submit your response by e-mail or fax** when possible. PHMSA may extend the 30-day period for your response if you ask for an extension, and show good cause, within the original 30-day period (49 C.F.R. §107.313(c)). Please contact the undersigned attorney if you have any questions.

What are my response options? You may respond to this Notice in any of three ways:

- (1) Admit the alleged violations and pay the proposed assessment (49 C.F.R. § 107.313(a)(1));
- (2) Send an informal response, which can include a request for an informal conference (49 C.F.R. § 107.313(a)(2)); or
- (3) Request a formal hearing (49 C.F.R. § 107.313(a)(3)).

PHMSA provides information on these options in Addendum B to this Notice and the Office of Chief Counsel's homepage (<http://rspa-atty.dot.gov>). PHMSA explains its procedures for assessing civil penalties and imposing compliance orders in 49 C.F.R. § 107.307 through 107.331.

What happens if I fail to respond? You waive your right to contest the allegations made in Addendum A to this Notice if you fail to respond within thirty (30) days of receiving it (or by the end of any extension). Also, the Chief Counsel may make a finding of fact consistent with the allegations in this Notice and assess an appropriate civil penalty if you fail to respond within the applicable time frame.


Jackie K. Cho, Attorney
Phone: (202) 366-6318
jackie.cho@dot.gov

Enclosures: Addendum A
Addendum B
Addendum C
Case Exhibits

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Addendum A

SPECIFIC ALLEGATIONS

Probable Violation No. 1

Respondent offered hazardous materials for transportation in commerce in quantities that require placarding when Respondent failed to develop and implement a security plan, in violation of 49 C.F.R. §§ 171.2(a), 172.800(b), and 172.802(a) and (b).

Factual Allegations/Averments

- A. On March 4, 2005, Respondent offered for transportation in commerce 5,480 pounds of Nitric Acid, 8, UN 2031, PG II.
- B. On March 30, 2005, Respondent offered for transportation in commerce 1,550 pounds of Corrosive Liquid, acidic, inorganic, n.o.s. (Praseodymium III Nitrate Solution), 8, UN 3264, PG III.
- C. On the dates provided in paragraphs A and B above, Respondent had not developed and implemented a security plan.

- Please see Inspection/Investigation Report Number 05453072 at page 2, and the exhibits that accompany this report, which are incorporated herein.

Probable Violation No. 2

Respondent allowed employees to perform functions subject to the HMR when these hazardous materials employees had not received security awareness training, in violation of 49 C.F.R. §§ 171.2(b), 172.702, and 172.704(a)(4).

Factual Allegations/Averments

- A. Respondent employs personnel who prepare hazardous materials for transportation, load hazardous materials, transport hazardous materials, discharge hazardous materials and who should mark and label hazardous materials packagings and prepare shipping papers.
- B. On the dates provided in Probable Violation No. 1 above, Respondent's hazardous materials employees had not received security awareness training.

Addendum A

Probable Violation No. 2 – Continued

- Please see Inspection/Investigation Report Number 05453072 at page 3, and the exhibits that accompany this report, which are incorporated herein.

FACTS ALREADY CONSIDERED (UNDER 49 C.F.R. § 107.331) IN SETTING PROPOSED PENALTIES

Prior Violations of the Hazardous Materials Regulations:

PHMSA increases proposed penalties when Respondent has committed a prior violation of the Federal Hazardous Materials Transportation Law or the HMR within the last six years, as determined through a civil penalty case, criminal case, or ticketing process (49 C.F.R. § 107.331(d)). More specifically, “the general standards for increasing a baseline proposed penalty on the basis of prior violations are . . . (1) for each prior civil or criminal enforcement case –25% increase over pre-mitigation recommended penalty, and (2) for each prior ticket–10% increase over pre-mitigation recommended penalty” (49 C.F.R. Part 107, Subpart D, Appendix A, Section IV, E).

PHMSA’s records do not contain any prior violations by Respondent and PHMSA did not consider any prior violations in determining the proposed assessment for the violation in this Notice.

Corrective Action:

An important purpose of PHMSA’s enforcement program is to bring the regulated community into compliance with the Hazardous Materials Regulations, and to promote ongoing efforts by that community to maintain compliance. In determining the final penalty assessment, PHMSA considers documented evidence of actions taken by a Respondent to correct violations and ensure that they do not recur (49 C.F.R. § 107.331 (g)).

In its September 28, 2005 letter, Respondent described and documented its corrective action as follows:

Probable Violation 1: Respondent stated that a security plan is being developed and will be implemented by January 16, 2006. Based on this corrective action, PHMSA reduced the proposed civil penalty for this count by \$450 (10%). Prior to receiving any further reduction in the proposed civil penalty for this probable violation, Respondent should provide documentation showing that the security plan has in fact been implemented.

Addendum A

Probable Violation 2: Respondent certified that security awareness training has been completed. Based on this corrective action, PHMSA reduced the proposed civil penalty for this count by \$40 (10%). Prior to receiving any further reduction in the proposed civil penalty for this probable violation, Respondent should provide documentation showing that each hazardous materials employee has been tested and records of current training maintained by Respondent, in accordance with 49 C.F.R. §§ 172.702(d) and 172.704(d).

Financial Status

Under 49 C.F.R. § 107.331 (e) and (f), the proposed penalty may be reduced if Respondent demonstrates that it is unable to pay that penalty, or if payment of the proposed penalty would affect Respondent's ability to continue in business. Respondent's poor financial condition may be a basis for reducing the proposed penalty; a healthy financial condition is *not* a basis for increasing the penalty.

PHMSA has no information that indicates that Respondent is unable to pay the proposed penalty. If Respondent believes it lacks the ability to pay the proposed penalty or that the proposed penalty will affect Respondent's ability to continue in business, Respondent should submit a current balance sheet (certified if possible) or other evidence of its assets and liabilities.

TOTAL CIVIL PENALTY PROPOSED

Probable Violation	Maximum Possible Penalty	Baseline Penalty	Increase for Priors	Corrective Action	Proposed Penalty
1	\$50,000	\$4,500	\$ 0	\$450	\$4,050
2	\$50,000	\$400	\$ 0	\$40	\$360
TOTAL	\$100,000	\$4,900	\$ 0	\$490	\$4,410

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

How do I respond to this Notice of Probable Violation (Notice)?

You may respond to this Notice in any of three ways:

- (1) Pay the proposed assessment (49 C.F.R. § 107.315);
- (2) Send an informal response, which can include a request for an informal conference (§ 107.317); or
- (3) Request a formal hearing (§ 107.319).

How do I pay the proposed assessment?

You pay the proposed assessment by:

- (1) Sending a wire transfer, through the Federal Reserve Communications System (Fedwire), to the U.S. Treasury account (49 C.F.R. § 89.21(b)(3). Addendum C contains the instructions for sending wire transfers. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-300), ATTN: Shelley Willis, Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125 (Telephone No. 405-954-8893).

Or

- (2) Sending a certified check or money order if the penalty amount is \$10,000 or less. The certified check or money order must be payable to the "U.S. Department of Transportation" and must be mailed to the Chief, Financial Operations Division, Attn: Shelley Willis, Federal Aviation Administration, Mike Monroney Aeronautical Center, AMZ-300, P.O. Box 25082, Oklahoma City, OK 73125.

Or

- (3) Using a credit card via the Internet. To pay electronically with a credit card, visit the following website address and follow the instructions:

<https://www.pay.gov/paygov/>

Where do I send my response?

You must address your informal response or formal hearing request to the attorney who issued the Notice at the following address:

Pipeline and Hazardous Materials Safety Administration
Office of the Chief Counsel (PHC-10)
Room 8417
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590-0001

When is my response due? (§ 107.313)

You must respond to the Notice within thirty (30) days of the date you receive it. The attorney who issued the Notice may extend the 30-day period for your response if you ask for an extension, and show good cause, within the original 30-day period.

What happens if I do not respond? (§ 107.313)

If you fail to respond to the Notice within thirty (30) days of receiving it (or by the end of any extension), you will waive your right to contest the allegations made in Addendum A to the Notice. In addition, the Chief Counsel will issue a default Order finding the facts as alleged in the Notice and assessing the civil penalty as outlined within that notice.

May I propose a compromise offer? (§ 107.327)

Yes. At any time before an order is issued and referred to the Attorney General for collection, you may propose to compromise a civil penalty case by submitting a specific compromise offer amount to the attorney handling the case (§ 107.327). The Chief Counsel may also propose a compromise.

If a compromise is agreeable to all parties, the attorney handling the case will forward a compromise agreement to you for signature. This document will outline the terms of the joint agreement and you must return a signed original to the attorney handling the case within 30 days. After this agreement has been returned it will be signed by the assigned attorney and presented to the Chief Counsel with a request that the Chief Counsel adopt the terms of that agreement by issuing a Compromise Order (49 C.F.R. § 107.327(a)(1)). The terms of the agreement constitute an offer of compromise until accepted by the Chief Counsel. When you agree to a compromise, you give up your right to appeal the order issued by the Chief Counsel.

What should I include in my informal response? (§107.317)

Your informal response must contain written explanations, information or arguments that respond to the allegation(s), the amount of the proposed civil penalty, or the terms of a proposed compliance order. Provide complete documentation of your explanations and arguments. No specific format is required for an informal response.

May I request an informal conference? (§107.317)

Yes. You may request an informal conference as part of your informal response. Please describe the issues you want to discuss during the conference. After receiving your request, the attorney handling the case will contact you to arrange the conference. Normally the conference will be held by telephone, and the attorney handling the case and the inspector who conducted the compliance inspection will participate in the conference.

What happens after I submit an informal response to the Notice?

We will hold an informal conference if you have asked for one. Based on the Notice, the evidence supporting the Notice, any written explanations, information and documentation that you provide, and matters presented at a conference, the Chief Counsel decides the case. The Chief Counsel may issue an order finding all or some of the violation(s) alleged in the Notice or may withdraw all or some of the alleged violation(s). If the Chief Counsel finds violation(s), the order will assess a civil penalty.

How do I appeal an order? (§ 107.325)

You may appeal an order to PHMSA's Administrator.

How do I request a formal hearing? (§ 107.319)

You must request a formal hearing within 30 days of the date that you receive the Notice. If you are granted an extension of time to respond to the Notice, you must submit a formal hearing request by the end of the extended time period. If you do not request a formal hearing within the specified time, you will waive your right to a formal hearing.

Your request for a formal administrative hearing must include the following:

- (1) The name and address of the respondent and any other person submitting the request;
- (2) A statement of which allegations of violations are not in dispute; and
- (3) A description of the issues that you will raise at the hearing. (The Administrative Law Judge will decide whether issues not raised in the request may be raised at the hearing.)

After receiving a request for a hearing that complies with these requirements, the Chief Counsel will request an Administrative Law Judge from the DOT Office of Hearings to preside over the hearing. Once an Administrative Law Judge is assigned, all further matters in the proceeding will be conducted by the Administrative Law Judge. Either you or PHMSA may appeal the decision of the Administrative Law Judge to PHMSA's Administrator.

How does PHMSA determine if I have committed a violation?

This is a civil penalty case and PHMSA uses the "knowingly" standard, which is defined in the Federal hazardous materials transportation law (See 49 U.S.C. 5123(a)(1)), in all civil penalty cases. The standard for a violation is similar to "negligence." After considering all the available information (including the additional information you provide in your response to the Notice), PHMSA must find either that (1) you had "actual knowledge" of the facts giving rise to the violation, or (2) you had "imputed knowledge," of the facts giving rise to the violation, in that a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge. PHMSA does not need to find that you actually knew about, or intended to violate, requirements in the Federal hazardous material transportation law or the HMR.

What factors does PHMSA consider when proposing and assessing a civil penalty? (§ 107.331)

PHMSA considers the following factors when proposing and assessing a civil penalty for a violation of the regulations:

- (1) The nature and circumstances of the violation(s);
- (2) The extent and gravity of the violation(s);
- (3) The degree of your culpability;
- (4) Your history, if any, of prior offenses;

- (5) Your ability to pay the penalty;
- (6) The effect of the penalty on your ability to continue in business;
- (7) The size of your business, and
- (8) Other matters as justice may require.

The nature and the timeliness of any corrective action you take to prevent future violations of a similar nature will be considered under item No. 8. However, you must submit documented evidence of that corrective action to the PHMSA attorney. If you have submitted documented evidence regarding any of these factors during PHMSA's investigation of the alleged violation(s), and that documentation is referenced in the Notice or accompanying Inspection/Investigation Report, you do not need to resubmit it.

Under the Small Business Regulatory Enforcement Fairness Act (SBREFA), PHMSA must consider the rights of small entities in enforcement actions. PHMSA's hazardous materials enforcement program has been designed to consider small businesses and the penalties that PHMSA proposes and assesses are generally considered appropriate for small businesses. PHMSA takes into consideration the size of the company when proposing and assessing a civil penalty.

However, special consideration may not be given to a small business if:

- (1) The small business has not corrected its violation(s) within a reasonable time;
- (2) The small business has committed one or more prior violations of the HMR;
- (3) The violations involve willful conduct;
- (4) The violations pose serious threats to health, safety or the environment; or
- (5) The small business has not made a good faith effort to comply with the law.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. Our objective is to ensure a fair regulatory enforcement environment.

You have a right to contact the Small Business Administration's national Ombudsman at 1-888-REG-FAIR (1-888-734-3247) or www.sbs.gov/ombudsman regarding the fairness of the

compliance and enforcement activities by this agency.

The Pipeline and Hazardous Materials Safety Administration strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

Where can I find more information on how PHMSA handles hazardous materials enforcement cases?

A more detailed discussion of these procedures is in 49 C.F.R. §§ 107.301 through 107.333. These procedures are also on the Office of the Chief Counsel's home page at <http://phmsa-attorney.gov>."

**INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO
THE FEDERAL AVIATION ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

1. <u>RECEIVER'S ABA NO.</u> 021030004	2. <u>TYPE SUBTYPE</u> (provided by sending bank)
3. <u>SENDING BANK ARB NO.</u> (Provided by sending bank)	4. <u>SENDING BANK REF NO.</u> (Provided by sending bank)
5. <u>AMOUNT</u>	6. <u>SENDING BANK NAME</u> (Provided by sending bank)
7. <u>RECEIVER NAME:</u> TREAS NYC	8. <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
9. <u>BENEFICIARY (BFN) - AGENCY LOCATION CODE</u> <u>BNF=/ AC 69-14-0001</u>	10. <u>REASONS FOR PAYMENT</u> Example: PHMSA - Payment for Case # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO.- "021030004". Ensure the sending bank enters this nine-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. EXAMPLE; \$10,000.00

Block #7 - RECEIVER NAME - "TREAS NYC." Ensure the sending bank enters this abbreviation; it must be used for all wire transfer to the Treasury Department.

Block #9 - BENEFICIARY- AGENCY LOCATION CODE - "BNF=/AC-69140001"
Ensures the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To
ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

Note: - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer to the General Accounting Division (405) 954-8893.

**Inspection / Investigation Report No. 05453072**

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Enforcement

Inspection Location:

Blue Line Corporation
3443 E. Commerce Street
San Antonio, TX 78226

Contact: Jon Blumenthal, President

Phone: 210-225-0400 x101

Fax: 210-225-1440

Type of Inspection: SHIPPER INSPECTION
(GENERAL)

Result: ENFORCEMENT REPORT

Inspector: BURTON, ROY
Code: DHM-45.3
Title: HAZARDOUS MATERIALS
ENFORCEMENT SPECIALIST

Signature:

Inspector #2:

Code:

Title:

Supervisor Name: Billy C. Hines, Jr.
Title: Chief, Southwest Region

Authorization Date: 9/29/2005

Summary of Inspection

On August 12, 2005, Hazardous Materials Enforcement Specialist Roy Burton, conducted a compliance inspection at Blue Line Corporation (BLC), San Antonio, TX. Mr. Jon Blumenthal, President, represented the company and provided requested documentation. BLC is a blender and shipper of class 8 and division 5.1 materials contained in drums and IBCs for use in the catalyst industry.

Violations noted during the inspection were discussed with BLC during the Exit Briefing (Exhibit 1). Violations concerned no security plan and no security awareness training.

Correspondence dated September 28, 2005, advising of action taken to rectify the violations noted in this report, has been received from BLC (Exhibit 7).

Violation Number: 1

Number Discovered: 1

49 CFR Section:

171.2(b)

172.800(b)

Exhibit: 2, 3 and 4

Violation Description:

Offering for transportation in commerce a quantity of hazardous material that requires placarding under the provisions of the Hazardous Materials Regulations, while failing to develop and adhere to a security plan.

Evidence Summary:

During review of BLC's hazmat shipping papers, the inspector noted bills of lading dated March 4, 2005, denoting a 5,480 pound shipment of Nitric Acid, 8, UN2031, PG II (Exhibit 2), and March 30, 2005, denoting a 1,550 shipment of Corrosive Liquid, acidic, inorganic, n.o.s., (Praseodymium III Nitrate Solution), 8, UN3264, PG III (Exhibit 3). Taking note of the gross weight of the hazardous materials on the shipments, the inspector asked to review BLC's security plan. Mr. Jon Blumenthal, President, informed the inspector that he was not aware of the security plan requirements, and therefore was unable to provide a security plan for review (Exhibit 4).

Section 172.800(b) states, in part, "By September 25, 2003, each person who offers for transportation in commerce or transports in commerce one or more of the following hazardous materials must develop and adhere to a security plan for hazardous materials that conforms to the requirements of this subpart...(7) A quantity of hazardous material that requires placarding under the provisions of subpart F of this part."

Section 172.802(b) states "The security plan must be in writing and must be retained for as long as it remains in effect. Copies of the security plan, or portions thereof, must be available to the employees who are responsible for implementing it, consistent with personnel security clearance or background investigation restrictions and a demonstrated need to know. The security plan must be revised and updated as necessary to reflect changing circumstances. When the security plan is updated or revised, all copies of the plan must be maintained as of the date of the most recent revision."

Section 172.504(c) states that placards are required on a transport vehicle containing 454 kg (1,001 pounds) or more aggregate gross weight of hazardous materials covered by table 2 of § 172.504(e).

Violation Number: 2

Number Discovered: 1

49 CFR Section:

171.2(b)

172.702(b)

172.704(a)(4)

Exhibit: 2, 3, 4, 5 and 6

Violation Description:

Offering hazardous materials for transportation in commerce, while failing to provide each hazmat employee security awareness training.

Evidence Summary:

During the course of the inspection, the inspector requested to review the hazmat training record for Mr. Hector Chavez, Warehouse Manager. Mr. Blumenthal provided the inspector with a training certificate dated March 26, 2004 (Exhibit 5), and a copy of BLC's hazmat training materials for review (Exhibit 6). After noting the absence of any reference to security awareness training on the certificate and the list of training subjects, the inspector asked Mr. Blumenthal if security awareness training had been provided. Mr. Blumenthal stated that BLC had not yet provided this training to employees (Exhibit 4). Mr. Blumenthal provided the inspector with bills of lading dated March 4, 2005, and March 30, 2005, confirming the shipment of class 8 hazardous materials by BLC (Exhibits 2 and 3).

Section 172.704(a) states that hazmat employee training must include the following:

- (1) General awareness/familiarization training;
- (2) Function-specific training;
- (3) Safety training;
- (4) Security awareness training. No later than the date of the first scheduled recurrent training after March 25, 2003, and in no case later than March 24, 2006, each hazmat employee must receive training that provides an awareness of security risks associated with hazardous materials transportation security. This training must also include a component covering how to recognize and respond to possible security threats. After March 25, 2003, new hazmat employees must receive the security awareness training required by this paragraph within 90 days after employment.

Additional Information Pertaining to the Inspection:

In a correspondence dated September 28, 2005, BLC advised that security awareness training had been provided and that a security plan will be in place by January 2006. This action appears to satisfactorily address the violations noted in this report.

Exhibit Summary

Evidence		Obtained From		
No.	Description	Name, Title	Company	City, State
1	Exit Briefing	Inspector		
2	BOL dtd 3/4/05	Jon Blumenthal, President	Blue Line Corporation	San Antonio, TX
3	BOL dtd 3/30/05	Jon Blumenthal, President	Blue Line Corporation	San Antonio, TX
4	Security Inspection Report	Inspector		
5	Training certificate	Jon Blumenthal, President	Blue Line Corporation	San Antonio, TX
6	Training modules	Jon Blumenthal, President	Blue Line Corporation	San Antonio, TX
7	Correspondence dtd 9/28/05	Jon Blumenthal, President	Blue Line Corporation	San Antonio, TX



U.S. Department
of Transportation

Pipeline and
Hazardous Materials
Safety Administration

Office of Hazardous
Materials Enforcement
Southwest Region

8701 South Gessner Rd.
Suite 1110
Houston, Texas 77074

EXIT BRIEFING

(This document is not a final report.)

Date: Aug 12 2005 Report Control #: 05453072
Company Name: BLUE LINE CORPORATION
Address: 3443 EAST COMMERCE ST SAN ANTONIO TX 78220

NAME OF INDIVIDUALS RECEIVING BRIEFING:

Name: Jon Blumenthal Title: PRESIDENT
Name: _____ Title: _____
Name: _____ Title: _____

This has been a compliance inspection conducted in accordance with Title 49 U.S.C. Section 5121(c). This exit briefing addresses only the areas noted, and it is not a finding of general compliance in any other areas covered by the Hazardous Materials Regulations that were subject to the inspection.

During the course of the inspection the following probable violations of 49 CFR and/or quality control items were noted.

Section: 172.800

Explanation: No security plan.

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: _____
EXHIBIT NUMBER: 1
PAGE NUMBER 1 OF 3

Section:

172.704(a)(4)

Explanation:

No Security awareness Training

Section:

Explanation:

Section:

Explanation:

Section:

Explanation:

This document is not a final report. The information gathered at this inspection and any probable violations noted will be reviewed prior to finalizing the report. Probable violation(s) may be removed or others may be added during this review. In addition, quality control items may be revised to become probable violations during this review.

Upon determination that a probable violation exists, the Associate Administrator for Hazardous Materials Safety is authorized to impose certain sanctions, including warning letters, tickets, compliance orders, and civil penalties. In addition, court actions, including injunctive or criminal proceedings, may be initiated. Title 49 U.S.C. Sections 5123 and 5124 provide for civil and criminal penalties for violation of the Hazardous Materials Regulations.

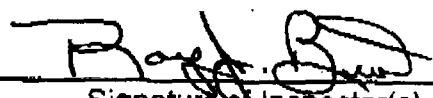
A civil penalty of not more than \$32,500, but not less than \$275, per violation may be imposed through administrative proceedings initiated by the Office of Chief Counsel of the Pipeline and Hazardous Materials Safety Administration. When a criminal violation has been determined by a court, a fine, or imprisonment for not more than 5 years, or both, may be imposed for each violation.

The inspector does not determine which sanction, if any, may be imposed and cannot provide information concerning what proceedings will be initiated or sanctions imposed.

* **Documentation of corrective action submitted in writing to the Inspector within 30 days of the inspection may be considered for mitigation should the sanction imposed result in the issuance of a notice proposing a civil penalty. However, any documented corrective action would not eliminate or preclude the initiation of a civil penalty proceeding, a finding of violation, or assessment of a civil penalty.**

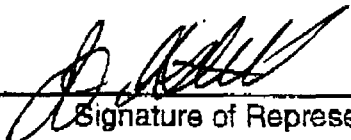
Our objective is to ensure a fair regulatory enforcement environment. If you feel you have been treated unfairly or unprofessionally, you may contact John O'Connell at 202-266-4700, or e-mail us at OHME-HQ@dot.gov. You also have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR, or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities by this agency. The Pipeline and Hazardous Materials Safety Administration strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

I certify that I received the above briefing as it appears on this form. I understand that by signing this form I am in no way expressing agreement with its contents. I am only acknowledging that I have reviewed it and have received a copy.



Signature of Inspector(s)

8-12-05
Date



Signature of Representative(s)

8/12/05
Date

Shipper No.

Shopper No. _____
COPY
 Carler _____

Your Truck

Date 03/04/05

(Name of carrier)

(SCAC)

On Collect on Delivery shipments the letters "COT" must appear below consignee's name or be otherwise indicated in Item 430, Exp. 1

TO: Brenntag Southwest
Complonee

Street 8246 S. Loop 1604 E.

City Elmendorf State TX Zip Code 78112

FROM: Blue Line Corporation
Shipper

3443 E. Commerce Street

City San Antonio State TX Zip Code 78220

Chemtrec (800) 424-9300

24 hr. Emergency Contact No. _____

Route

Vehicle
Number[illegible]PLACARDS TENDERED: YES ☒ NO ☐

Note - (1) Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property, as follows: "The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding _____ per _____."

(2) Where the applicable tariff provisions specify a limitation of the carrier's liability absent a release or a value declaration by the shipper and the shipper does not release the carrier's liability or declare a value, the carrier's liability shall be limited to the extent provided by such provisions. See NMFC Item 172.

(3) Commodities requiring special or additional care or attention in handling or storing must be so marked and packaged as to ensure safe transportation. See section 246 of item 350, Bills of Lading, Freight Bills and Statements of Charges and Section 1(a) of the Contract Terms and Conditions for a list of such articles.

hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name and are classified, packed, marked and labelled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations.

 Signature

REMIT
C.O.D. TO:
ADDRESS

COD

Ampl: \$

Subject to Section 7 of the conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:

The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

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C.O.D. FEE:	
PREPAID	<input type="checkbox"/>
COLLECT	<input type="checkbox"/>

TOTAL CHARGES:	\$	100.00
----------------	----	--------

FREIGHT CHARGES

FREIGHT PREPAID ☐ **Check box if freight is prepaid**

RECEIVED, subject to classifications and terms in effect on the date of the issue of this Bill of Lading, the property described above in apparent good order, except as noted hereon and in pursuance of contents of packages unknown, marked consigned, and destined as indicated above which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under contract) agrees to carry to its usual place of delivery at said destination, if on its route, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed also to each carrier of all or any of, said property over all or any portion of said route to deliver

Shipper hereby certifies that he is familiar with all the bill of lading terms and conditions in the governing classification and the said terms and conditions are hereby agreed to by the shipper and accepted for himself and his assigns.

SHIPPER Blue Line Corporation

CARRIER Brenntag Southwest

PER Hector Chavez

PER

DATE _____

Permanent post-office address of shipper

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**INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**



**PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
HAZMAT SECURITY INSPECTION REPORT**

Facility Name and Address: Blue Line Corporation
3443 E. Commerce St
San Antonio Tx 78220

Company Officials Interviewed: Jon Blumenthal

Title: President

1. Does the company offer any of the following for transportation: [§ 172.800(b)]
- ☐ a) A highway route controlled quantity of a Class 7 material.
 - ☐ b) More than 55 pounds of a Division 1.1, 1.2, 1.3 in a motor vehicle, rail car, or freight container.
 - ☐ c) More than 1 liter per package, of a material poison by inhalation, Zone A.
 - ☐ d) A quantity of a hazardous material in a bulk packaging (> 3,500 gallons for liquids/gas, 468 cubic feet for solids).
 - ☐ e) >5,000 lbs. (gw) of one hazard class in non-bulk packaging for which placarding of a vehicle, rail car or freight container is required.
 - ☒ f) A select agent or toxin listed in 42 CFR, Part 73.
 - ☒ g) A quantity of hazardous materials that requires placarding
 - ☐ h) None of Above: Security Plan is not required, though Security Awareness Training is still required to be conducted (See page 2, Security Training)
2. Does the company have a written security plan? Yes ☐ No ☒
3. Has it been approved by another Federal agency [172.804]? Yes ☐ No ☐
4. If yes, name of agency _____ and date approved _____
5. Does the plan include a security assessment of possible transportation security risks [172.802]?
Yes ☐ No ☐
6. Does the plan include measures to address the assessed risk(s)? Yes ☐ No ☐
7. Does the plan address personnel security? Yes ☐ No ☐
8. Is there a method in place to confirm information provided by employees hired for positions that involve access to or handling of materials covered by the security plan? Yes ☐ No ☐

**INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**

1

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
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INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

9. Is the company adhering to its personnel security plan? Yes _____ No _____

10. Does the plan address unauthorized access? Yes _____ No _____

11. Does the company adhere to the plan to prevent unauthorized persons to gain access to hazmat covered by the plan or transport conveyances being prepared for transportation?

Yes _____ No _____

12. Does the plan address en route security? Yes _____ No _____

13. Does the company adhere to its en route security plan from origin to destination, including private/contract/common carrier? Yes _____ No _____

SECURITY TRAINING

14. Has the company conducted security awareness training (SAT)? * Yes _____ No ☒

15. Does the SAT include a component on how to recognize and respond to possible security threats? Yes _____ No _____

16. Has each HM employee, hired after March 25, 2003, received SAT within 90 days of hire?

Yes _____ No _____

17. Has the company conducted in-depth security training (plan specific) for all HM employees?

Yes _____ No _____

18. Does the in-depth training program include the following:

a. Company security objectives? Yes _____ No _____

b. Specific security objectives? Yes _____ No _____

c. Employee responsibilities? Yes _____ No _____

d. Actions to take in the event of a security breach? Yes _____ No _____

e. Organizational security structure? Yes _____ No _____

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

2

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453072
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PAGE NUMBER 2 OF 3

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

19. Has the company created and retained records of employee security training?

Yes _____ No _____

Additional Notes: _____

[* Note: A company is not required to test or retain records concerning the security awareness training requirement until an employee's first scheduled recurrent training after March 25, 2003.]

This inspection report assesses your compliance with our Security Plan regulations (49 CFR §§ 172.704 (Training), 172.800 (Purpose and Applicability), 172.802 (Components of a security plan), and 172.804 (Relationship to other Federal requirements)). **This inspection report and any comments made during this evaluation do not constitute an endorsement or approval of your security program in whole or in part. Do not send us a copy of your Security Plan as a part of corrective action. If we need a copy of your Security Plan we will specifically request it in writing.**

I hereby certify that the above responses are true to the best of my knowledge.

Persons Interviewed:

Signature _____

Date 8/12/05

Signature _____

Date _____

Inspector(s):

Signature _____

Date 8-12-05

Signature _____

Date _____

Nothing Follows. RSB (Inspector's Initials)

The following website may be helpful in the development and administration of security plans:

http://hazmat.dot.gov/hmt_security.htm

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

3

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453072
EXHIBIT NUMBER: 4
PAGE NUMBER 3 OF 3

COPY

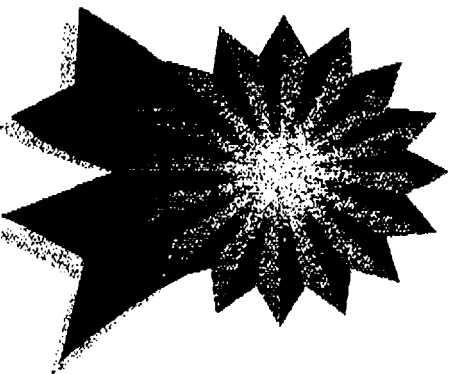
Hazmat Training Certificate of Completion

is hereby granted to:

Hector Chavez

for completing Training Modules

Granted: March 26, 2004



Annette Wiley

Annette Perez
QA Manager

COPY

Hazardous Materials Transportation Training

Student Login: helen lee

Student Name: Helen Lee Berlanga

Student SSN: 464911327

Progress as of: Tue Mar 08 19:20:12 2005

COPY

Module Title	Status	Test Results
Introduction	completed	
01 - The Hazardous Materials Table	completed	95% taken 02/20/2005
02 - Shipping Papers	completed	96% taken 02/20/2005
03 - Marking and Labeling	completed	94% taken 02/21/2005
04 - Placarding	completed	86% taken 03/08/2005
05 - Packaging	completed	100% taken 02/24/2005
6A - Carrier Requirements (Highway)	completed	85% taken 03/07/2005
6B - Carrier Requirements (Air)	completed	92% taken 03/02/2005
6C - Carrier Requirements (Rail)	not attempted	
6D - Carrier Requirements (Water)	completed	88% taken 03/08/2005

U.S. DOT/RSPA/OHME/SOUTHWEST REGION
REPORT NUMBER: 05453072
EXHIBIT NUMBER: 6
PAGE NUMBER 1 OF 1

**Blue Line**
CORPORATIONphone 210: 225-0400
fax 210: 225-1440

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Roy Burton	Jon Blumenthal & Annette Perez
COMPANY:	DATE:
U.S. Department of Transportation	9/28/2005
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
713-272-2821	
PHONE NUMBER:	E-MAIL ADDRESS:
713-272-2813	annette@bluelinecorp.com
RE:	
Compliance Inspection	

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

This is in response to the violation that was cited during your compliance inspection conducted at Blue Line Corporation:

Violation #1 – Failure to comply with the requirements of HMR; 49 CFR Parts 171-180; develop and implement a security plan if you offer for transportation hazardous materials.

Corrective Action: Develop and implement a Security Plan to include personnel security, unauthorized access, en route security, and security awareness training.

Status: Facility Security Checklist, Security Checklist for the Shipper and Receiver of Hazmat Material has been completed. Security Awareness training has been completed. A Security Plan is currently being developed and will be implemented by January 16, 2006.

If you have any questions or if we can be of further assistance, please call 210-225-0400.